

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20464
)	
[REDACTED],)	DECISION
)	
Petitioners.)	
_____)	

On June 14, 2007, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued two Notices of Deficiency Determinations (NODD) each proposing income tax, penalty, and interest for taxable years 2004 and 2005 in the amount of \$6,175. One of the NODDs was sent to [Redacted] and one of the NODDs was sent to [Redacted].

[Redacted] (taxpayers) jointly filed a timely appeal. They did not request a hearing but did submit additional information. The Tax Commission has reviewed the file and hereby issues its decision based upon the information contained in the file.

Because Tax Commission records showed the taxpayers met the state income tax filing requirements and had not filed their Idaho returns for 2004 and 2005, the Bureau attempted to contact them for clarification. The taxpayers did not respond.

[Redacted].

Idaho Code § 63-3045 (1)(a) states:

63-3045. Notice of redetermination or deficiency --
Interest. (1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be

accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

Determining the taxpayers had a requirement to file Idaho individual income tax returns, the Bureau prepared returns on their behalf and sent them each a NODD. Separate NODDs and the filing status of married filing separate were used because, by not filing state or federal income tax returns for 2004 and 2005, the taxpayers did not make the election to file returns with the filing status of married filing joint. One-half of the community income was used to determine the tax amount. No withholding was identified.

In response to the notice, the taxpayers sent an Idaho part-year resident and nonresident income tax return for 2004 and an Idaho resident income tax return for 2005. Both returns were filed using the filing status of married filing joint.

Because both returns had errors and omissions, the taxpayers were asked to provide the missing information and correct the errors in the returns. The errors and omissions were described to the taxpayers. The taxpayers did not comply with the request.

The Bureau recalculated the two NODDs and issued one NODD to both taxpayers for the years 2004 and 2005 using the filing status of married filing joint. Records from [Redacted] the Tax Commission's sales tax records [Redacted], an Idaho business the taxpayers owned and operated in 2004, indicated the taxpayers were Idaho residents during the entire fourth quarter of 2004 rather than the one month the taxpayers claimed in the part-year resident return they submitted. The amended NODD was computed based on three months of Idaho residency in 2004. The taxable income for 2005 was amended to include income reported in a Form 1099-R issued in the taxpayers

names and social security numbers that had not been included in the taxable income in the 2005 Idaho return they submitted. Other calculation errors were corrected.

When the taxpayers did not respond to the amended NODD, their file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayers did not respond to a letter from the Tax Policy Specialist advising them of their appeal rights.

The taxpayers have not filed complete and accurate 2004 and 2005 Idaho income tax returns and have submitted nothing that would cast doubt on the Bureau's amended determination that was based on information submitted by the taxpayers and the records retained by [Redacted] the Idaho State Tax Commission.

The Bureau allowed the taxpayers credit for \$284 of withholding for 2004 and \$1,034 of withholding for 2005. The interest and penalty added by the Bureau pursuant to Idaho Code §§ 63-3045 and 63-3046 was reviewed and found to be proper and in accordance with Idaho Code.

WHEREFORE, the Notice of Deficiency Determination dated June 14, 2007, [Redacted] and the Notice of Deficiency Determination dated June 14, 2007, [Redacted], are hereby MODIFIED and, as so modified, are APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$ (125)	\$ 0	\$ 0	\$ (125)
2005	1,752	438	163	<u>2,353</u>
			TOTAL DUE	\$2,228

Interest is computed through March 31, 2008.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of taxpayers' right to appeal this decision is enclosed.

DATED this ____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2008, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

[Redacted]